

## 48A C.J.S. Judges § 365

Corpus Juris Secundum | August 2023 Update

### Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D.; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

### X. Special or Substitute Judges and Like Judicial Officers

#### C. Authority, Powers, and Duties of Special or Substitute Judge

## § 365. Suspension of powers of regular judge suspended on selection of special or substitute judge

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Judges 25\(1\)](#)

**The powers of the regular judge ordinarily are suspended on the selection of a special or substitute judge.**

On the selection of a special or substitute judge, the powers of the regular judge ordinarily are suspended as far as they relate to the case or term which the former has been chosen to try or hold.<sup>1</sup> However, the authority of the regular judge is not suspended but continues as to matters not within the purview of the special or substitute judge's selection.<sup>2</sup> While a properly assigned special judge has all the powers and responsibilities of a regular judge of the court, those powers and responsibilities are always secondary to those of the regular judge and come into play only when the regular judge is unable to hear the case.<sup>3</sup> Moreover, the powers of the special judge are subject to return to the control of the regular judge in the event that the special judge becomes incapacitated or refuses to act.<sup>4</sup>

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### Footnotes

- 1 Ind.—[State ex rel. Marks v. Lake Juvenile Court of Lake County](#), 240 Ind. 284, 163 N.E.2d 891 (1960).  
Mo.—[State ex rel. Ellis v. Creech](#), 364 Mo. 92, 259 S.W.2d 372 (1953).
- 2 Cal.—[Metropolitan Water Dist., of Southern California v. Adams](#), 19 Cal. 2d 463, 122 P.2d 257 (1942).  
Ind.—[Zaring v. Zaring](#), 219 Ind. 514, 39 N.E.2d 734 (1942).
- 3 Ky.—[Cox v. Braden](#), 266 S.W.3d 792 (Ky. 2008).

